

REMARKS

Claims 1-15 are all the claims pending in the present application, claims 1-14 having been amended to recite aspects of the disclosed embodiments with more particularity. Support for the foregoing amendments is found throughout the present application, and in particular, in the written description at pages 3 and 4. No new matter has been added.

Preliminary Matters

Applicants thank the Examiner for indicating that claims 1 and 7 are directed to allowable subject matter.

Claims 4 and 10 are objected to based upon informalities noted by the Examiner in paragraph 1 of the outstanding Office Action. Applicants thank the Examiner for the suggested corrections, and submit that the foregoing amendments adequately address the Examiner's objection.

Claims 1-5, 7, 8, 10, and 11 stand rejected under 35 U.S.C. §112, second paragraph, as indefinite. Applicants submit that the claims as presented in the above listing of claims are definite, and request that the rejection under 35 U.S.C. §112, second paragraph, be withdrawn.

Claims 6, 8, and 9 stand rejected under 35 U.S.C. §102(b) as anticipated by United States Patent (USP) 3,286,576 to West. Claims 12-15 stand rejected under 35 U.S.C. §102(b) as anticipated by USP 5,462,067 to Shapiro. Applicants respectfully traverse the prior art rejections, and request reconsideration and allowance of all the pending claims in light of the following remarks.

Aspects of the present invention relate generally to a lip enhancement apparatus and method, and more particularly to a mechanism and method for enhancing the appearance of the lips without use of an injection or plastic surgery. As specifically recited in claim 6, for example, one method as described in the present application may generally comprise stretching a mucosal area of a human lip in order to evert a portion of the lip, and adhering a polymer strip to the stretched mucosal area, using an adhesive, to maintain the lip in an everted position. In that regard, an exemplary apparatus may comprise a polymer strip fitting within a mucosal area of a human lip and everting a portion of the lip when adhered to the mucosal area, and an adhesive for adhering the polymer strip to the mucosal area of the lip.

The Rejections Under 35 U.S.C. §102

As noted above, claims 6, 8, and 9 stand rejected under 35 U.S.C. §102(b) as anticipated by West, and claims 12-15 stand rejected under 35 U.S.C. §102(b) as anticipated by Shapiro. In order to anticipate a pending claim under any of the various subsections of 35 U.S.C. §102, a reference must teach every element recited in the claim. As set forth in detail below, the cited references are more deficient than the Examiner acknowledges, and the rejections under 35 U.S.C. §102(b) are therefore improper.

For example, even given the Examiner's expansive interpretation of the term "adhering" as set forth in paragraph 5 of the outstanding Office Action, the West patent fails to teach or even to suggest "adhering a polymer strip to the stretched mucosal area, using an adhesive, to maintain the lip in an everted position." The lip eversion in West is an incidental consequence resulting from ordinary use of the lip exerciser, and the "adhering" noted by the Examiner is not equivalent to that described and claimed in the present application. The eversion in West, for example, ceases when the lip muscles to be exercised are relaxed (*see, e.g.*, West at column 3, lines 30-36); in contrast, as described in the specification and recited with particularity in claim 6, the lip is maintained in "an everted position" by the polymer strip adhered to the mucosal area irrespective of muscle flexure, exercises, or other factors.

Applicants submit that the West patent neither teaches nor suggests every element recited in claim 6; accordingly, the West patent is not sufficient to anticipate claim 6, and the rejection under 35 U.S.C. §102(b) is improper. At least for the foregoing reasons, the claims depending from claim 6 are also allowable. Further, claims 7-11 recite additional features and combinations of elements, and Applicants submit that these claims are additionally allowable for their respective recitations as well.

Applicants note that the Shapiro patent is similarly deficient; the reference fails to teach at least "a polymer strip . . . everting a portion of the lip when adhered to the mucosal area." Additionally, Shapiro also fails to teach an element directed to adhering the polymer strip to the lip; while the Shapiro reference teaches an adhesive strip 21, Shapiro's adhesive strip adheres portions of the polymeric film 12 *to other portions of the polymeric film*, as set forth in the paragraph bridging columns 2 and 3 (*see also*, column 4, lines 14-16), and *not to the mucosal area of the lip* as specifically recited in claim 12. The Shapiro apparatus would be rendered largely inoperative if the adhesive were used to adhere the film to the lip as the Examiner has

suggested, because the adhesive is required to maintain the film in the correct shape to fit snugly over the teeth and gums (Abstract; column 3, lines 1-9). Use of the Shapiro device as the Examiner has suggested at page 4 of the outstanding Office Action would either: render the Shapiro apparatus entirely inoperative; or at least minimize intended advantages. Given the fair teachings of the reference, it would not be readily apparent to an ordinarily skilled artisan that the structure disclosed in the Shapiro patent should be used in the manner suggested by the Examiner.

Applicants submit that the Shapiro patent neither teaches nor suggests every element recited in claim 12; specifically, the Shapiro patent fails to teach or to suggest a polymer strip “everting a portion of the lip when adhered to the mucosal area,” and is additionally deficient to the extent that it fails to teach “adhering the polymer strip to the mucosal area.” Accordingly, the Shapiro patent is not sufficient to anticipate claim 12, and the rejection under 35 U.S.C. §102(b) is improper. At least for the foregoing reasons, the claims depending from claim 12 are also allowable. Further, claims 13-15 recite additional features and combinations of elements, and Applicants submit that these claims are additionally allowable for their respective recitations as well.

CONCLUSION

The cited patents, whether considered individually or even in combination, fail to teach every element recited in the pending claims.

Based at least upon the foregoing Remarks, Applicants respectfully submit that all the pending claims are allowable, and that the present application is currently in condition for allowance. The Examiner is encouraged to contact the undersigned at 858-509-4007 if it is believed that a discussion may advance the prosecution of this case.

Applicants believe that no fee is required at this time. If Applicants are mistaken in that regard, please apply any charges or credit any overpayments to Deposit Account No. 50-2212.

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Respectfully submitted,



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